



January 8, 2004

ANTHONY J. VEGLIANTE
VICE PRESIDENT, LABOR RELATIONS

SUBJECT: Audit Report – Postal Service's Equal Employment Opportunity
Organizational Structure (Report Number HM-AR-04-004)

This report presents the results of our audit of the Postal Service's Equal Employment Opportunity Organizational Structure (Project Number 03YG046LH003). This review was part of our work conducted during the self-initiated survey of Equal Employment Opportunity monetary settlement agreements (Project Number 03YG046LH000). This is one in a series of reports developed from the survey, and is intended to help protect the interests of the Postal Service by making recommendations as soon as we identify issues.

Background

The Office of Inspector General (OIG) received a hotline complaint while conducting our review of the Postal Service's monetary settlement agreements, alleging Postal Service management routinely violated Equal Employment Opportunity regulations by interfering with the Equal Employment Opportunity investigative process.¹ The complainant stated the Postal Service's Equal Employment Opportunity managers reported to Human Resource managers, and this structure was not in compliance with Equal Employment Opportunity Commission Management Directive 110. According to the complainant, this reporting relationship represented a conflict of position and interest in the Equal Employment Opportunity process.

Objective, Scope, and Methodology

The objective of our audit was to determine whether the Postal Service's Equal Employment Opportunity organizational structure at the headquarters and area offices was in accordance with Equal Employment Opportunity Commission guidance. To

¹ We did not conduct a review of the allegations, because the complainant was pursuing them through the Equal Employment Opportunity complaint process, and our involvement in an open case would have been inappropriate.

accomplish our objective, we reviewed Equal Employment Opportunity Commission Management Directive 110, 29 Code of Federal Regulations (C.F.R.) § 1614, and the Postal Service's organizational structure. We also interviewed Postal Service officials at headquarters and in each of the nine area offices.

This audit was conducted from February 2003 through January 2004, in accordance with generally accepted government auditing standards and included such tests of internal controls as were considered necessary under the circumstances. We discussed our conclusions and observations with appropriate management officials and included their comments, where appropriate.

Prior Audit Coverage

We did not identify any prior audits or reviews related to the objective of this audit.

Audit Results

Postal Service's Equal Employment Opportunity Organizational Structure

The audit disclosed the Postal Service's Equal Employment Opportunity organizational structure at the headquarters level was consistent with Equal Employment Opportunity guidance. We also found, however, the organizational structure at the area level was not consistent with the guidance. As a result, there was an appearance of a conflict of position or interest in the placement of some Postal Service Equal Employment Opportunity officials. This appearance of conflict could compromise the integrity of the Postal Service's Equal Employment Opportunity program. However, it should be noted other than the single hotline complaint we received while conducting our review of the Postal Service's monetary settlement agreements, there were no other indicators that the areas' Equal Employment Opportunity organizational structure had resulted in improprieties or the perception of improprieties.

We found the deputy postmaster general was the designated director of Equal Employment Opportunity at the headquarters level, and he reported directly to the postmaster general.² In addition, we found the manager, Equal Employment Opportunity Compliance and Appeals at the headquarters level, reported to the vice president, Labor Relations. None of these officials were responsible for executing and advising on personnel actions. Therefore, this structure was consistent with Equal Employment Opportunity Commission requirements. We also found, however, area officials responsible for executing and advising on personnel actions, were also responsible for managing, advising, or overseeing the Equal Employment Opportunity pre-complaint or complaint processes. Specifically, the area office managers

² This is consistent with 29 C.F.R. § 1614.607, which provides, "An agency head may delegate authority under this part, to one or more designees."

responsible for overseeing the Equal Employment Opportunity process reported to the area human resource managers who were also responsible for personnel actions.

The Equal Employment Opportunity Commission Management Directive 110 and 29 C.F.R. § 1614.102(b)(4) require each federal agency to appoint a director of Equal Employment Opportunity, who shall be under the immediate supervision of the agency head. The Equal Employment Opportunity Commission Management Directive 110 also states, "Agencies must avoid conflicts of position or conflicts of interest as well as the appearance of such conflicts. For example, the same agency official(s) responsible for executing and advising on personnel actions may not also be responsible for managing, advising, or overseeing the Equal Employment Opportunity pre-complaint or complaint processes. Those processes often challenge the motivations and impacts personnel actions and decisions. In order to maintain the integrity of the Equal Employment Opportunity investigative and decision-making processes, those functions must be kept separate from the personnel function."

According to the Postal Service's former Equal Employment Opportunity Compliance and Appeals manager, the deputy postmaster general was the designated director of Equal Employment Opportunity who reported directly to the postmaster general. She believed this was the most relevant reporting relationship intended by the Equal Employment Opportunity Commission Management Directive 110 and the Equal Employment Opportunity Commission. She also stated the current field structure resulted in accountability for Equal Employment Opportunity issues at the area level and that the sheer size of the agency made the current field structure more feasible. Additionally, she stated the Postal Service was not aware of situations in which the structure had resulted in improprieties or the perception of improprieties.

Conclusion

The Equal Employment Opportunity Commission Management Directive 110 is clear regarding the appropriate organizational structure for handling equal employment matters. However, the Postal Service's position that the current field structure resulted in accountability for Equal Employment Opportunity issues at the area level, and that the sheer size of the agency made the current field structure more feasible, seems reasonable, particularly when we found no indicators that the organizational structure had resulted in improprieties or the perception of improprieties. Finally, given that the Equal Employment Opportunity Commission's Office of Legal Counsel recently agreed with the Postal Service on another compliance issue³ outlined in the Equal Employment Opportunity Commission Management Directive 110, we believe the appropriateness of the Postal Service's organizational structure in the area offices should be resolved between the Postal Service and the Equal Employment Opportunity Commission.

³ This issue is discussed further in our report entitled Postal Service's December 2000 Equal Employment Opportunity Settlement Policy (Report Number HM-AR-04-003, dated December 30, 2003).

Recommendations

We recommend the vice president, Labor Relations:

1. Discuss with the Equal Employment Opportunity Commission whether the Postal Service's current Equal Employment Opportunity organizational field structure is consistent with the Equal Employment Opportunity Commission's regulations and guidance.

We also recommend that if the Equal Employment Opportunity Commission determines the Postal Service's Equal Employment Opportunity structure is not consistent with its regulations and guidance, the vice president, Labor Relations:

2. Take appropriate action to bring the Postal Service into compliance with the Equal Employment Opportunity Commission's regulations and guidance regarding organizational structure.

Management's Comments

Management stated that changes had been made to the Postal Service's Equal Employment Opportunity organizational structure, which should satisfy the intent of the recommendations contained in the report. Specifically, management stated the advocacy function for Equal Employment Opportunity cases in which a hearing request is made, was assumed by the Postal Service's Law Department on October 1, 2003. They stated the investigatory function would be outsourced to independent contract investigators, and managed from a national Equal Employment Opportunity services office, scheduled for opening on January 12, 2004. Management also stated they are reviewing the adjudicatory function to determine whether changes may be in order in that function as well. Management's comments, in their entirety, are included in the appendix of this report.

Evaluation of Management's Comments

Management's actions taken or planned were generally responsive to the recommendations and should correct the issues identified in the report. However, should management decide to keep the adjudicatory function with the area Equal Employment Opportunity manager, and leave the manager under the supervision of the area Human Resource manager, our recommendation that management discuss such a structure with the Equal Employment Opportunity Commission for the purpose of ensuring the reporting structure is consistent with the Equal Employment Opportunity Commission's regulations and guidance, still applies.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions, or need additional information, please contact Chris Nicoloff, director, Human Capital, at (214) 775-9114 or me at (703) 248-2300.

Mary W. Demory
Deputy Assistant Inspector General
for Operations and Human Capital

Attachment

cc: Patrick R. Donahoe
Mary Anne Gibbons
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APPENDIX. MANAGEMENT'S COMMENTS

ANTHONY J. VEGLIANTE
VICE PRESIDENT, LABOR RELATIONS



December 22, 2003

KIM H. STROUD
DIRECTOR, AUDIT OPERATIONS
OFFICE OF INSPECTOR GENERAL

SUBJECT: Audit Report – Postal Service's Equal Employment Opportunity Organizational
Structure (Report Number HM-AR-04)

Thank you for the opportunity to review and comment upon this report. In the report, the Office of Inspector General (OIG) recommends that the Vice President, General Counsel discuss with the Equal Employment Opportunity Commission (EEOC) "whether the Postal Service's current Equal Employment Opportunity organizational field structure is consistent with the [EEOC's] regulations and guidance." The report further recommends that, "if the EEOC determines the Postal Service's Equal Employment Opportunity structure is not consistent with its regulations and guidance" that the Postal Service "[t]ake appropriate action to bring the Postal Service into compliance with" the Commission's "regulations and guidance" As agreed to in our recent meeting, I have reviewed the recommendations and list our responses as stated below.

As the report recognizes, with the exception of a single hotline complaint, "there were no other indicators that the Pacific Area Equal Employment Opportunity organizational structure had resulted in improprieties or the perception of improprieties." (Emphasis supplied). The structure that was in place at the time the audit was conducted had functioned well for more than a decade. The EEOC was aware of the Postal Service's EEO structure and did not voice any objections to it. Moreover, as management has previously stated, this structure ensured that the EEO process received the resources and oversight necessary to maintain a national program, given the sheer size of the Postal Service.

As discussed at our meeting, the EEO structure has changed considerably since the audit was conducted, and will change again in the immediate future. As we see it, the EEO function is divided into three primary areas: adjudication, investigation and advocacy. The adjudicatory function includes the acceptance or rejection of a claim, and the writing of the Postal Service's final decision regarding the claim. The investigatory function concerns the investigation of claims that have proceeded to the formal complaint stage. The advocacy function involves representing the Postal Service at hearings or on appeal before the EEOC. In the past, area EEO managers have overseen or had significant involvement in all of these functions. As described immediately below, in very short order, this will no longer be the case.

With respect to the investigatory function, the Postal Service has determined to outsource all its EEO investigations to independent contract investigators, and to manage those investigations from a National EEO services office. That office, which will open on January 12, 2004, in Tampa, Florida, will be headed by a postal executive reporting directly to me. With respect to the advocacy function, on October 1, 2003, the Postal Service's Law Department assumed advocacy responsibility for all EEO cases in which a hearing request was made on or after that date. Finally, we are reviewing the adjudicatory function to determine whether or not changes may be in order in this area as well.

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We believe that the initiatives described above will improve an already-strong EEO organizational structure. In light of these changes, we believe that the recommendations contained in the audit have been satisfied, as we discussed, and per the above.

Please let me know if you have any additional questions about the matters addressed in the report.



Anthony J. Vegliante

cc: Mr. Donahoe
Ms. Gibbons
Ms. Medvidovich
Ms. Duchek
Ms. Richter